

California Regional Water Quality Control Board
Santa Ana Region

November 21, 2003

ITEM: 18

SUBJECT: Status of Efforts to Require Suspected Dischargers to Investigate
Perchlorate Pollution in the Rialto, Colton and Chino Groundwater
Subbasins

DISCUSSION:

At the October 3, 2003 Board meeting, staff reported that, pursuant to Section 13267 of the California Water Code, the Executive Officer had issued a total of twenty Investigation Orders to suspected dischargers and property owners regarding the perchlorate pollution in the Rialto, Colton and Chino Groundwater Subbasins.

Identified below is the status of the investigations for those suspected dischargers that have conducted activities or communicated with staff since the last Board meeting:

Pyro Spectaculars, Inc. and Astro Pyrotechnics

Pursuant to a 13267 Investigation Order, Pyro Spectaculars, Inc. was required to submit a work plan and conduct a soil and groundwater investigation at its Pyro Spectaculars and Astro Pyrotechnics facilities. In accordance with the work plan approved by the Executive Officer, the field activities were required to commence on July 21, 2003. Pyro Spectaculars, Inc. failed to conduct the required investigation; therefore, the Executive Officer issued an administrative civil liability complaint against Pyro Spectaculars, Inc. on October 28, 2003 for failing to comply with the Investigation Order. A hearing regarding this matter is scheduled to be held at the November 21, 2003 Board meeting.

In the meantime, Pyro Spectaculars commenced its field activities on November 5, 2003, under a newly proposed time schedule. Staff is overseeing these field activities, and will provide a progress report to the Board on November 21, 2003.

American Promotional Events, Inc. - West (APE – West)

The Executive Officer conditionally approved the work plan for additional soil investigation at the APE – West site. The field work is scheduled to commence in early December 2003.

Mr. Wong Chung Ming, Rialto Property Owner

Mr. Wong has submitted a draft work plan for investigation of the 160-acre site that is currently leased and occupied by APE – West and Pyro Spectaculars, Inc. Staff is reviewing the work plan, and has scheduled a site walk with Mr. Wong's environmental consultant for mid-November. This site visit will facilitate finalization of the work plan, and field work will be scheduled to commence shortly thereafter.

Mr. Thomas O. Peters, Rialto Property Owner

Board met with the environmental consultant for Mr. Thomas O. Peters regarding the work plan for investigation of the property located at 2298 Stonehurst Avenue, Rialto (currently leased and occupied by Pyro Spectaculars, Inc., dba Astro Pyrotechnics). Staff will continue its efforts to ensure that the investigation of Mr. Peters' property is carried out in coordination with the on-site investigation activities planned by Pyro Spectaculars, Inc. at the Astro Pyrotechnics site.

County of San Bernardino

The County submitted its final report of the soil and groundwater investigation of the former bunker complex in Rialto. Staff has reviewed the report, and will meet with technical consultants for members of the Inland Empire Perchlorate Regulatory Task Force on November 18, 2003, to discuss the findings presented in the County's report.

Zambelli Fireworks

Pursuant to a 13267 Investigation Order, Zambelli was required to submit a work plan and conduct a soil and groundwater investigation at the site of its former storage bunker in Rialto. The Executive Officer issued an administrative civil liability complaint against Zambelli on July 28, 2003 for failing to comply with the Investigation Order. Zambelli waived its right to a hearing before the Board, and agreed to pay \$20,000 (in four separate installments) to settle its financial obligations under the Complaint, and to submit a work plan by October 6, 2003. Zambelli has paid the first two installments of \$5,000 each, as scheduled, and submitted the work plan on time. The Executive Officer plans to conditionally approve the work plan. Pending this approval, staff anticipates that field work at the former Zambelli bunker site will commence in December 2003.

Emhart Industries, Inc./Black & Decker (former West Coast Loading Corporation/Kwikset)

Pursuant to a 13267 Investigation Order, a work plan for a perchlorate investigation at the former West Coast Loading Corporation (WCLC) facility was due from Emhart Industries, Inc. on November 22, 2002. Emhart/Black & Decker submitted a Petition for Stay and for State Board Review of the 13267 Order. The State Board dismissed the

Stay request on December 18, 2002. The State Board dismissed the Petition for Review on July 7, 2003.

On August 6, 2003, Emhart filed a Writ of Mandate in the State Superior Court, Riverside County, seeking an order to invalidate the Executive Officer's 13267 Investigation Order. On August 21, 2003, the Executive Officer issued an administrative civil liability complaint against Emhart for failing to comply with the Investigation Order. Emhart later filed a Motion for Stay of Regional Board Order and Abatement of Administrative Civil Liability Proceedings, seeking an order to halt the administrative civil liability proceedings.

At a hearing on October 17, 2003, the Court agreed only to stop the accrual of penalties as of August 6, 2003, the date that Emhart filed its Petition for Writ of Mandate. The Regional Board is bound by the Court's Stay decision, and the Board was scheduled to consider adoption of an Order assessing the maximum liability assessment up to the date of August 5, 2003. This matter was to be heard by the Board on November 14, 2003; however, Emhart requested a postponement of the hearing. The hearing was postponed, and a scheduling conference regarding this matter will be held on November 14, 2003.

At the November 21, 2003 Board meeting, staff will provide information on any further developments, and will continue to update the Board at future meetings on the progress of the perchlorate investigation efforts.